(23)

IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No.	27/1 of 2023
Date of Institution:	12.06.2023
Date of Decision:	27.07.2023

Rehman Gul s/o Mast Ali Khan R/O Qoum Ali Khel, Tappa Panjam, Tehsil Upper, District Orakzai

(Plaintiff)

VERSUS

1. **Chairman NADRA, Islamabad.**
2. **Assistant Director, NADRA, District Orakzai.**

(Defendants)

SUIT FOR DECLARATION-CUM-PERPETUAL AND MANDATORY INJUNCTION

JUDGEMENT:

1. Plaintiff Rehman Gul s/o Mast Ali Khan has brought the instant suit against defendants chairman NADRA and 01 other for declaration-cum-perpetual and mandatory injunction to the effect that his correct date of birth as per admission and withdrawal record of the school is 25.12.1985 which is wrongly entered as 15.08.1981 by the defendants in his record with them. He prayed that his plaint is based on facts and the same will not effect the other members in his family tree. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence, the present suit;

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2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.

3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. *Whether the plaintiff has got cause of action?*
2. *Whether the suit is within time?*
3. *Whether the correct date of birth of the plaintiff is 25.12.1985 while defendants have wrongly entered the same as 15.08.1981 in his CNIC?*
4. *Whether plaintiff is entitled to the decree as prayed for?*
5. *Relief?*

Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

PW-01, Shamshad Shah s/o Jalandhar Shah, TT Government Primary School, Zanka Khel, Orakzai. He brought the relevant register of admissions and withdrawals, wherein entry has been made on 05.08.1989 for the 1st time and according to the same, date of birth of the plaintiff is 25.12.1985 which is written at serial No. 159 of the register Ex.PW-1/1.

PW-02, is the statement of Plaintiff Rehman Gul, who repeated his stance as alleged in the plaint. He stated that he has got education till

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7th class.

On the other hand, representative for the NADRA recorded his statement as DW-01 and produced Family Tree (alpha and Beta) of the plaintiff along with Processing Form which are Ex.DW-1/1 to Ex.DW-1/3 respectively. He admitted in his cross-examination that in the admission and withdrawal register Ex.PW-1/1, name and father name f the plaintiff along with his correct date of birth i.e 25.12.1985 is correctly entered at serial No. 159.

After closing of evidence of the parties, arguments heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02:

The copy of the CNIC of the plaintiff is available on the case file as Ex.PW-2/1, according to which the said CNIC has been issued by the defendants to him on 03.08.2022 with the alleged wrong date of birth and the plaintiff has challenged the same through the instant suit on 12.06.2023. According to law, period of limitation for filing declaratory suit for challenging wrong entry is 06 years and in the present case, the suit has been brought after about 10 months of issuance of the CNIC with the alleged wrong entry, therefore, the suit is within time. The issue is decided in positive.

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Issue No. 03: (26)

It is the case of the plaintiff that his correct date of birth as per admission and withdrawal register of Government Primary School, Zanka Khel, Orakzai is 25.12.1985 and the same has been wrongly entered in his record with the defendants as 15.08.1981 which needs rectification. The plaintiff in order to prove his claim produced and recorded the statement of Shamshad Shah, TT teacher. Government Primary School, Zanka Khel, Orakzai, who exhibited the relevant page of the admission and withdrawal register as Ex.PW-1/1, whereupon the date of birth of the plaintiff has been entered at serial No. 159 as 25.12.1985 instead of 15.08.1981. The defendants were duty bound to have shattered the said document during cross-examination or during defendant's evidence but the perusal of statement of DW clearly shows that the contents of the said document i.e Ex.PW-1/1 have been admitted by the representative for the defendants during cross-examination and nothing has been brought on record in order to nullify the authenticity of the admission and withdrawal register Ex.PW-1/1, which has been produced from proper custody and being priorly prepared from the record of the defendants, has got preference over the same.

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In view of the above, it can be safely held that the correct date of birth of the plaintiff is 25.12.1985. Therefore, the issue is decided in positive.

Issue No. 01 & 04:

Both these issues are interlinked, hence, taken together for discussion.

As sequel to my findings on issue No. 3, the plaintiff has got a cause of action and therefore, entitled to the decree as prayed for. Both these issues are decided in negative.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for with costs.

File be consigned to the Record Room after its completion and compilation.

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Announced
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CERTIFICATE

Certified that this judgment of mine consists of five (05) pages, each has been checked, corrected where necessary and signed by me.

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Senior Civil Judge,
Orakzai at (Baber Mela)